IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINALCIVIL JURISDICTION
Notice of Motion No. 21 of 2007
in
PIL Writ Petition No.17 of 2006

Bombay Environmental Action
Group and Anr ...Petitioners.

vs

The State of Maharashtra & Anr. ...Respondents

Mr Gautam Patel i/b M. V. Jayakar & Co for the Petitioners.
Mr Niranjan Pandit AGP for respondent Nos. 1 and 4
Ms P A Purandhare for respondent BMC.
Mr. Sarang Aradhye i/b R.V. Govilkar for respondent No.7
Mr P.K.Shroff i/b P,.K. Shroff and Co for intervenors
Mr.V.A. Thorat Senior Advocate i/b A.R. Pandey for applicants in Notice of Motion No. 21 of 2007.
Ms Kiran Bhagalia for MMRDA.

CORAM: H.L.GOKHALE, Acg C.J. & V.M.KANADE J.

DATE: JANUARY 31, 2007.

P.C.:-

This motion is taken out by one Supreme Infrastructure (I) Pvt Ltd for withdrawing the order passed by the Division Bench on 11th October 2006 in PIL Writ Petition No. 17 of 2006. That petition pertains to the quarrying activities and the order passed therein restrains all concerned from carrying out the quarrying activities. The applicants have

pointed out that they are not indulging into any such quarrying activity and an affidavit has been filed by one Vikas Sharma in support of this notice of motion and in paragraph 7 thereof it is specifically stated that they are not carrying out any sort of quarrying activities but they are only running a ready mix concrete plant and asphalt batch mix plant, which is confused with the stone crushing. It is further pointed out that that the applicants have necessary licences from the Pollution Control Board as well as the Municipal Corporation. The activity of this mixing plant is necessary for making supply of the readymix for the purpose of road widening of the Western Express Highway and Bombay Port Trust area. Apart from what is stated in the affidavit, Mr. Thorat, on instructions from the applicants made a statement that the applicants undertake to this court that they will not carry out any quarrying activity.

An affidavit in reply has been filed on behalf of the Board that the applicants are carrying out such quarrying activities but there is no specific material placed in support of it. In this view of the matter that the applicants have specifically stated that they are not carrying out any such quarrying activities and have undertaken to this court not to carry out any such quarrying activities, and considering the requirement of

their product for the purpose of road widening, we allow this motion in terms of prayer clause (a) and clarify that the applicants' activities of running readymix concrete plant and asphalt batch mix plant in village Powai will not be covered by the order of injunction passed by this Court on 11th October, 2006. This exemption will, however, be subject to fulfilling the conditions of Maharashtra Pollution Control Board by the applicants. We make it clear that under this order stone crushing is not permitted. The learned counsel for the applicants states that he is not pressing prayer clause (c) at this stage.

Notice of Motion is disposed of accordingly.

ACTING CHIEF JUSTICE

V.M.KANADE, J.